

# COMMONWEALTH OF VIRGINIA

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## VIRGINIA HOUSING COMMISSION

### SUMMARY

**Full Commission Meeting  
November 20, 2013, 1:00 PM  
Waterside Marriot, Norfolk**

**Senator Mamie Locke** called the meeting to order at 1:00 PM.

**Members in attendance:** Senator Mamie E. Locke, *Chair*; Senator George L. Barker; Senator John C. Watkins; Delegate David L. Bulova; Mark K. Flynn, *Governor Appointee*; and Laura D. Lafayette, *Governor Appointee*.

**Staff:** Elizabeth Palen, *Executive Director of VHC*

**Senator Locke** asked for a minute of silence for all to reflect on healing for Senator Creigh Deeds of Bath County and for the loss of his son Austin "Gus" Deeds.

**Senator Locke** said that each work group would give a report of their interim work, including potential legislation. A vote on each piece of potential legislation would then take place at this meeting.

### **Affordable Housing, Real Estate and Mortgage Law Work Group**

**Senator Mamie Locke:** Chip Dicks, Virginia Association of Realtors asked to briefly summarize the proposed real estate-based affordability bills included in the Affordability, and Real Estate Law and Mortgages Work Group report.

**Chip Dicks:** The first bill that was discussed was the Service Members Civil Relief Act. There is currently a conflict between this federal law and state law. Unfortunately no military representatives were brought to the table to discuss the bill; they were asked and declined to attend.. Professional real estate organizations then asked for it to be removed from the table until a full discussion could take place with both military personnel and landlords.

Death and Disability of a broker: the question is whether there was a problem and whether legislation is needed to solve the problem. The issue stemmed from a Northern Virginia case where there was a contest about closing out a real estate business—broker had died and there was a contest about who should handle the winding up of his affairs for his business. Realtors have no recommendation. Delegate Scott Surovell asks for this bill to be approved by the Commission.

Delegate Mark Keam's bill was discussed at an Affordable Housing, Real Estate and Mortgage Law Work Group. He spoke to the Work Group regarding the issue: a special tax rate, an

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DELEGATE DAVID L. BULOVA  
DELEGATE ROSALYN R. DANCE  
DELEGATE BARRY D. KNIGHT

SENATOR MAMIE E. LOCKE  
SENATOR JOHN C. WATKINS  
SENATOR GEORGE L. BARKER

MARK K. FLYNN  
LAURA D. LAFAYETTE  
T.K. SOMANATH

additional tax on individuals within a certain transportation district. The Work Group collectively felt that the Board of Supervisors should handle the issue. Delegate Keam has not asked for the bill to go forward.

**Senator Watkins:** If we allow mixed-use development bonds, this problem will become more acute. Residential property owners get assessments to pay back bonds. It is one thing when businesses get taxed, but residents prevail on local officials when upset. James City had turnover of several supervisor seats due to a similar taxing scenario.

**Senator Barker:** I am familiar with this situation. There was an agreement to develop a tax district to promote the coming development areas around the coming metro stations. The incremental tax increase paid by the residents here is small compared to the increase in their property value as the result of development. The Board of Supervisors had a strong vote to maintain the tax district.

**Senator Watkins:** That is the same argument used in James City. They took the CDA and paid it off with general funds. We need to be careful in this situation.

**Chip Dicks:** The First-Time Home Buyer Savings Accounts (HB 1868, T. Greason, 2013) would be treated like a Roth IRA. The contribution would be given after income tax, and the growth of the contribution would grow tax-free in perpetuity. We have worked with the bankers to work out technical issues with the language, but the bankers still have policy concerns, believing this account will mislead and frustrate the consumers. I am not aware of any opposition to the bill, other than the Virginia Bankers Association. Thus, we changed the language to not include banks in the definition of financial institutions, eliminating their involvement.

**Senator Barker:** Does the change in the definition of “financial institution” to remove reference to banks affect the position of the Virginia Bankers Association?

**Chip Dicks:** Unfortunately, no. There is no objection to the language, but they have some policy objections.

**Matt Bruning, Virginia Bankers Association:** Consumers may find that the benefit of this account is very minimal, while there is also a penalty that can occur. We are concerned this consumer will come to the banks confused and frustrated with their accounts. Removing banks from the definition of “financial institution” helps, but the consumer may not know this and their displeasure with the bank will still be present.

**Senator Barker:** If this bill were to pass, would you want banks to be included in the definition of “financial institution”?

**Matt Bruning:** I do not think leaving us out of the definition of financial institution alleviates our concerns, as we may have to deal with consumer confusion anyway.

**Chip Dicks:** We are happy to put banks back in the definition if that is the request. This type of account has much greater benefits if the growth is allowed to accrue for a number of years. Then, the growth can be very significant.

**Senator Watkins:** Is an individual limited to only one account?

**Chip Dicks:** An individual can set up only one account per beneficiary.

**Senator Watkins:** Why are they exempt from the APA?

**Chip Dicks:** The idea is to declare this account with a one-page form to turn in with your income tax, so there is no need to go through the APA.

**Senator Barker:** So there is a cap of the contribution of \$50,000?

**Chip Dicks:** Correct.

**Senator Watkins:** So if an individual puts in \$50,000 into an account, interest cannot accrue in the account because the balance will be over the cap?

**Chip Dicks:** The cap is on the contribution. There is no limit on the amount of growth on the account. However, we could also put a cap on the growth.

**Senator Watkins:** I like the concept, but I am not sure all the technicalities have been worked through yet. I am also concerned about fraud issues.

**Chip Dicks:** I will be happy to continue to work on this and add anti-fraud provisions. I ask that you recommend moving the bill forward in concept, subject to deleting the exclusion of banks in the definition of “financial institution” and discussion with the Bureau of Financial Institutions as suggested by Senator Watkins. We can also look at more technical changes before the final meeting next month.

**Elizabeth Palen:** We have just moved the final Housing Commission meeting to December 11 at 10:00 AM, room to be announced.

**Senator Locke:** We will hold endorsing this bill until the December meeting. Regarding the Source of Income bill under the Virginia Fair Housing Law (SB 1224, M. Locke, 2013), the suggestion was to send a letter to the Congressional Delegation. I think that a better idea would be to meet directly with Maurice Jones from HUD.

**Chip Dicks:** We could not reach consensus in the sub-work group, but we agreed that there were problems with the current Housing Choice Voucher program. We thought reaching out on the federal level would be helpful, instead of creating state legislation.

**Laura Lafayette:** I think reaching out to Maurice Jones makes sense, but I think it ultimately comes to the efficiency of the Local Housing Authority.

It was agreed to reach out to Jones at HUD.

Senator Barker made a motion to put forward Death or of Disability of a Broker (HB 1973, S. Surovell, 2013).

It was seconded and was moved forward.

There was no motion to move forward Local Real Property Tax in Certain Service Districts (HB 2131, M. Keam, 2013).

### **Common Interest Communities Work Group**

**Delegate Bulova:** Issues from a Supreme Court ruling that limits homeowners associations their ability to fine residents and change the bi-laws if their declarations were not enough initially or require a super-majority . There is some potential legislation for 2014. If they do come up with something between now and the December meeting, it may be useful for them to give a presentation.

## **Housing and Environmental Standards Work Group**

**Senator Watkins:** Regarding adaptive flooding, we are proposing a joint sub-committee to be put together to put information together before we start any legislation. We do not want to debate the cause, but there is a recurrent flooding problem and it is getting worse. It is a future reality we need to face, and we should start looking into this now.

**Brian Pennington, *City of Norfolk*:** There happens to be conflicting guidance provided both in the Code and through executive order as far as which state agency is responsible for which component of coastal flooding. We are hoping over the next two years to pull together enough information from institutions of higher education and state agencies to put forward some legislation. We would like to remain in contact with the Commission to ensure progress and up-to-date information.

**Senator Barker:** I was present in the work group meetings and there were some very powerful presentations regarding where we are now with sea level rise. We need to work together to figure this out and come up with some solutions, regardless of the cause.

**Senator Locke:** We will deal with this issue in the December meeting as well.

**Senator Watkins:** Statewide Fire Prevention Code (SB 822, P. Puckett, 2013) changes authority from DHCD. The panel determined there was not substantial reason to move the authority.

**Elizabeth Palen:** Senator Puckett was fine with that recommendation as well.

**Senator Watkins:** I request that there is no further action on this legislation. With the Uniform Statewide Building Code (HB 1574, R. Minchew, 2013/ SB1239, M. Herring, 2013), the feeling of the workgroup was to go back to the table and get an agreement. We do not recommend action with this legislation.

**Mark Flynn:** Delegate Minchew has sent the Commission an email addressing that he could not be here, and he sent another draft with additional changes to the legislation. The current law says that a town with a population over 3,500 people must have its own Building Department or an agreement with the county. This law is not reflected in the reality of the Commonwealth. The first fix is to take out the population condition. The new proposal has this unstruck, but I am not sure if that is an error. We are simply trying to bring the law into compliance with the reality in the Commonwealth.

**Erik Johntson, *Virginia Association of Counties*:** In the working group, VACO takes no position on the changes made by Emory Rodgers. However, VACO does oppose the amendment changes made by Mr. Flynn, regarding the changes on the 3,500 population threshold.

**Jeff Gore, Loudon County:** We are trying to create a new deal with Leesburg regarding the maintenance portion of the Code, as we already have an agreement to enforce the other provisions of the Building Code for the city. Some of these smaller towns do not have the same resources and staff to provide maintenance like the county does. However, the larger towns, like Leesburg, have other revenue sources that they can apply to these things, but they have not chosen to do so. We think the few localities dealing with this can work it out on their own terms. I think getting rid of the 3,500 threshold would create more problems.

**Mark Flynn:** With the 3,500 threshold struck, more flexibility is given to counties.

**Jeff Gore:** I think that is innocuous.

**Mark Flynn:** Delegate Minchew has responded by email stating that the section where the 3,500 threshold is unstruck was a software error.

**Emory Rodgers:** I think December 11 is a better date to discuss this.

**Senator Locke:** We will defer this issue until December.

**Senator Watkins:** Regarding generators in high-rise apartments, we did a survey and found that new buildings have generators but requiring retrofitting will affect the ability for individuals to pay rent. Those in Alexandria will want us to write a letter expressing to the localities that they endeavor to require reconstruction to include generators. I do not know if we are in a position to do so.

**Senator Barker:** What would this letter say?

**Elizabeth Palen:** The letter would request that the localities have their Building Codes reflect the need for generators in high-rise buildings.

**Laura Lafayette:** What about instances with new buildings?

**Elizabeth Palen:** With new buildings, this is not an issue as they already have generators.

**Layfeayette:** Asking for retrofitting existing buildings creates a financial burden on the tenants of the building. I would argue against the letter.

**Senator Watkins:** I do not think it is appropriate to send this letter.

**Senator Barker:** This issue came up after the derecho last summer, when many elderly residents were without power in the heat. This is not an insignificant issue.

### **Neighborhood Transitions and Residential Land Use**

**Elizabeth Palen:** Delegate Dance cannot be here today, but the Work Group took up two issues. Electronic Security Systems, Registration for Sales (HB 2302, J. Cosgrove, 2013) had to do with unlicensed door-to-door salesmen selling security systems. Delegate Cosgrove chose to take no further action on the issue. The other bill was the Building Revitalization Grant Fund (SB 748, W. Stanley, 2013) that would provide grants to individuals in localities to revitalize older buildings. There is a new draft that allows \$100,000 grants with parameters that the business shall enter into a memorandum with the Department of Housing and Community Development and provides a capital investment of \$1 million. This is statewide.

**Senator Locke:** Without a funding source, setting up this program is an issue.

**Senator Watkins:** We could send a letter to Senator Stanley saying that this is the recommended draft if he wants to pursue it, but we will not take a position on the bill.

**Senator Barker:** I think this would have a better chance if Stanley provided an additional funding source.

**Senator Locke:** Then we will take no action on this, and a letter will be sent to Senator Stanley. We did decide to endorse the Death or Disability of a Broker legislation, and the rest will be discussed in December. We are taking no action on the Puckett, Stanley, Cosgrove, or Kean legislation.

**Senator Locke** asked if there was any public comment. Hearing none, Senator Locke adjourned the meeting at 2:35 PM.